

REMARKS

The Office Action of August 25, 2009 has been reviewed and the Examiner's comments have been carefully considered. Claims 20-35 are pending in the application. Claim 20 has been amended and claim 24 has been canceled.

Claim 20 has been amended, in relevant part, to recite "wherein said securing means are arranged on or in front of said body, wherein the securing means remain in the recess when said body is removed". Basis for this amendment may be found in previously presented claim 24. Accordingly, no new matter has been added. Claim 20 has also been amended to recite, in relevant part, "wherein said core ... is secured against said formwork at the supporting surface and is removed by pulling out the core together with said elastomer material from said concrete". Basis for this amendment may be found in the specification, for example, on page 5, lines 3-7 and on page 3, lines 20-23. Accordingly, no new matter has been added. Claim 20 has further been amended, in relevant part, to recite "wherein said securing means extend through an opening in said formwork, the diameter of said opening being smaller than the size of said part of said core secured against said formwork." Basis for this amendment may be found in the specification, for example, on page 1, lines 29-32 and on page 2, lines 6-19. Accordingly, no new matter has been added.

Rejection Under 35 U.S.C. § 112, Second Paragraph

Claims 20-35 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, claim 20 has been rejected as reciting the phrase "is removed by pulling out the core together with said body". Applicant has amended claim 20, in accordance with the Examiner's suggestion, to recite, in relevant part, "is removed by pulling out the core together with said elastomer material". In view of the present amendment, Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 112, second paragraph.

Double Patenting

Applicant will submit a proper Terminal Disclaimer to United States Application No. 10/519,273 upon disposition of the co-pending application or an indication of allowable subject matter in the present application.

Rejections Under 35 U.S.C. § 103(a)

Claims 20-22, 24-27, 29-33, and 35 are rejected under 35 U.S.C. § 103(a) as being obvious over English-language translation of Belgium Patent No. 502,991 (hereinafter "S.T.U.P.") in view of United States Patent No. 1,157,895 to Murphy et al. (hereinafter "Murphy").

S.T.U.P. is provided as disclosing a method of creating a cavity with truncated cone sections in concrete. Specifically, the Office Action contends that S.T.U.P. discloses placing a core (1) and shaping rod (3) inside from the side of a mold (8, 9, 10) with the core (1) made of rubber. The Office Action further contends that S.T.U.P. discloses that the shaping rod (3) is steel and is held in place in the mold with the rod, and that concrete is poured and cured around the core (1). The deformable rod (3) and elastic core (1) are removed from the mold with one containing the other by a pulling force which reduces the deformable rod's (3) transverse cross section. The mold is taken apart and cables (14) are then inserted and the cavity is formed with the truncated cone sections.

The Office Action acknowledges that S.T.U.P. does not disclose that the securing means formed by the projections are for the engagement part fitted into the concrete. In order to rectify this deficiency, the Examiner applies Murphy as disclosing a method of creating cavities in concrete walls in the shape of a bolt, that the bolt may have a thread, and that the bolt may be replaced in the insert. According to the Examiner, it would have been obvious to one skilled in the art to use the mold insert of Murphy in the method of forming a cavity of S.T.U.P.

As a preliminary matter, Applicant has amended independent claim 20 to recite, in relevant part, "wherein said securing means are arranged on or in front of said body, wherein the securing means remain in the recess when said body is removed". Applicant submits that S.T.U.P. does not disclose or suggest the placement of any item in the concrete to be poured, let alone a method of arranging engagement means in a concrete part wherein the securing means remain in the recess when the body is removed. In addition, Murphy does not disclose a method in which the securing means remain in the recess when the body is removed, but rather that the bolt may be subsequently replaced into the cavity. Applicant respectfully submits that neither S.T.U.P., nor Murphy, nor the combination of S.T.U.P. and Murphy, disclose or suggest that the securing means are arranged on or in front of the body wherein the securing means remain in the recess when the body is removed, as recited by amended independent claim 20.

Dependent claims 21-22, 25-27, 29-33, and 35 depend directly or indirectly from independent claim 20 and are believed patentable for the reasons stated herein. Claim 24 has been cancelled by this Amendment, therefore rendering the rejection of claim 24 moot. Reconsideration and withdrawal of the rejection of claims 20-22, 25-27, 29-33, and 35 is respectfully requested.

Claims 20, 23-25, and 33 are rejected under 35 U.S.C. § 103(a) as being obvious over S.T.U.P. in view of United States Patent No. 4,018,470 to Tye (hereinafter "Tye").

As similarly stated above, the Office Action acknowledges that S.T.U.P. fails to disclose or suggest that the securing means formed by the projections are for the engagement part fitted into the concrete. In order to rectify this deficiency, the Examiner applies Tye as disclosing making the anchor to a slab interact with a pick-up insert that allows the T-head insert to engage internal thrust surfaces.

Applicant has amended independent claim 20 to recite, in relevant part, "wherein said securing means extend through an opening in said formwork, the diameter of said opening being smaller than the size of said part of said core secured against said formwork." Applicant submits that neither Tye nor S.T.U.P., nor the combination thereof, disclose that the securing means extend through an opening in said formwork, the diameter of the opening being smaller than the side of the part of the core secured against the formwork. Accordingly, in view of the amendment to independent claim 20, reconsideration and withdrawal of the rejection of claims 20, 23, 25, and 33 is respectfully requested.

Claims 28 and 33 are rejected under 35 U.S.C. § 103(a) as being obvious over S.T.U.P. in view of Murphy, and further in view of United States Patent No. 4,074,499 to Mess (hereinafter "Mess"). The Office Action contends that Mess discloses that a concrete hole is filled after use to disguise the hole which would necessarily be in the form of a concrete bolt.

Applicant respectfully submits that Mess does not rectify the above deficiencies of S.T.U.P. or Murphy. Mess discloses that an elastomer body (25) is entered into item (11), by pushing a rod (30) in an upwards direction against the solid stem (22). Subsequently, rod (30) is removed and pouring of the concrete takes place. A pulling force is exerted on solid stem (22) of the elastomeric material and the body (25) is removed. Mess does not disclose or suggest a core that is removed together with the elastomeric body or that securing means remain in the recess when the body is removed. Reconsideration and withdrawal of the rejections of claims 28 and 33 under 35 U.S.C. § 103(a) are respectfully requested.

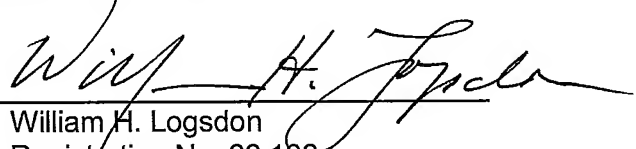
Claim 28 is rejected under 35 U.S.C. § 103(a) as being obvious over S.T.U.P. in view of Murphy, and further in view of German Patent DE 4324522 to Krauss (hereinafter "Krauss"). In addition, claim 34 is rejected under 35 U.S.C. § 103(a) as being obvious over S.T.U.P. in view of Murphy, and further in view of United States Patent No. 5,660,020 to Reay (hereinafter "Reay"). Dependent claims 28 and 34 depend directly or indirectly from independent claim 20 and are believed patentable for the reasons stated herein. Neither Krauss nor Reay rectifies the deficiencies of S.T.U.P. and Murphy in that neither Krauss nor Reay discloses or suggests securing means that are arranged on or in front of said body, wherein the securing means remain in the recess when said body is removed, as recited by amended independent claim 20. Furthermore, neither Krauss nor Reay discloses or suggests wherein the securing means extend through an opening in said formwork, with the diameter of the opening being smaller than the size of the part of the core secured against the formwork, as is also recited by amended independent claim 20. Reconsideration and withdrawal of the rejections of claims 28 and 34 under 35 U.S.C. § 103(a) are respectfully requested.

Applicant requests entry of this Amendment, reconsideration and withdrawal of the rejections, and allowance of all pending claims.

Respectfully submitted,

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